

E-FILING

AO 91 (Rev.5/85) - Criminal Complaint

United States District Court

NORTHERN

DISTRICT OF

2008 JUN 23 10 25 52

UNITED STATES OF AMERICA

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

V.

CRIMINAL COMPLAINT

Miguel Angel RIVERA-Diaz

00-70378

RS

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, May 29, 2008, in Monterey County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, two years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Signature of Complainant

Sworn to before me and subscribed in my presence,

6/23/08
Date

at

San Jose, California
City and State

Richard Seeborg
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Signature of Judicial Officer

RE: Miguel Angel RIVERA-Diaz

A98 411 140

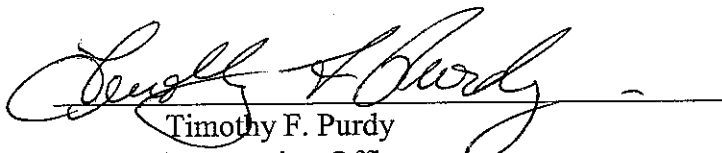
I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Miguel Angel RIVERA-Diaz, is a 29 year-old male, citizen and native of Mexico, born on March 24, 1979, in Mexico, as substantiated by multiple statements made to that effect by the DEFENDANT on May 30, 2008 to ICE Immigration Enforcement Agent (IEA) David Vargas of the San Jose, California DRO Sub-Office;
- (2) The DEFENDANT has been assigned Alien Registration number of A 98 411 140, FBI number of 325190KC4 and California Criminal State ID Number of CA0805613;
- (3) On November 4, 2005, the DEFENDANT was convicted in the Superior Court of California – County of Monterey for the offense of: BATTERY AGAINST SPOUSE, a misdemeanor, in violation of California Penal Code 243(e), and was sentenced to (180) days in jail;
- (4) On May 1, 2007, the DEFENDANT was convicted in the Superior Court of California – County of Monterey for the offense of: INFLECTING CORPORAL INJURY ON A SPOUSE, a misdemeanor, in violation of California Penal Code 273.5(a), BATTERY AGAINST SPOUSE, a misdemeanor, in violation of California Penal Code 243(e) and CAUSE OR PERMIT CRUELTY TO A CHILD, a misdemeanor, in violation of California Penal Code 273(a) and sentenced to (45) days in jail;
- (5) On November 7, 2007, the DEFENDANT was convicted in the Superior Court of California – County of Monterey for the offense of: CORPORAL INJURY TO A CHILD, a felon, in violation of California Penal Code 273d(a), CAUSE OR PERMIT CRUELTY TO A CHILD, a misdemeanor, in violation of California Penal Code 273(a), VANDALISM, a misdemeanor, in violation of California Penal Code 594(b)(1), KILL, MAIM, TORTURE, MUTILATE AN ANIMAL, a misdemeanor, in violation of California Penal Code 597(a) and VIOLATE COURT ORDER TO PREVENT DOMESTIC VIOLENCE, a misdemeanor, in violation of California Penal Code 273.6(a) for which the DEFENDANT was sentenced to (240) days in jail;
- (6) On December 11, 2007, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director, Phoenix, Arizona and was subsequently removed from the United States to Mexico;

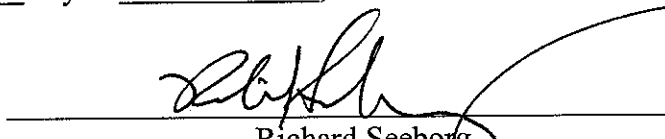
RE: Miguel Angel RIVERA-Diaz

A98 411 140

- (7) On June 17, 2008, the DEFENDANT was convicted in the Superior Court of California – County of Monterey for the offense of: CAUSE OR PERMIT CRUELTY TO A CHILD, a misdemeanor, in violation of California Penal Code 273(a) and KNOWINGLY VIOLATING A PROTECTIVE ORDER, a misdemeanor, in violation of California Penal Code 166(c)(1) and sentenced to (31) days in jail;
- (8) On, May 29, 2008, the DEFENDANT was encountered by IEA David Vargas, at the Monterey County Jail in Salinas, California, and found to be unlawfully present in the United States after a prior deportation. On May 30, 2008 IEA David Vargas conducted an interview with the DEFENDANT in which DEFENDANT was advised of his **Miranda** rights in the Spanish language. The DEFENDANT waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Secretary of the Department of Homeland Security or the United States Attorney General to reenter the United States;
- (9) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (10) On May 30, 2008, the DEFENDANT'S fingerprints were taken as part of standard operating procedure involving all subjects in custody. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Miguel Angel RIVERA-Diaz on official documents in his Administrative File (Number 98 411 140). The latent print examiner determined that the fingerprints were identical.
- (11) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.


Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 23rd day of June, 2008


Richard Seeborg
UNITED STATES MAGISTRATE JUDGE